

BEFORE THE DEPARTMENT
OF NATURAL RESOURCES AND CONSERVATION
OF THE STATE OF MONTANA

* * * * *

IN THE MATTER OF APPLICATION FOR)
CHANGE OF APPROPRIATION WATER RIGHT) FINAL ORDER
NO. 41749-c41H BY JAMES M.)
HARTZHEIM)

* * * * *

A hearing in this matter was scheduled for April 13, 1983, in Bozeman, Montana. On March 29, 1983, the Department received notice that the Objector Hoy Ditch Co., was withdrawing its objection to this application. On April 8, 1983, the Department received notice that the Middle Creek Ditch Company was withdrawing its objection to this application.

Therefore, there being no further objections on file to the granting of this application, the following order is hereby issued:

1. Application for Change of Appropriation Water Right No. 41479-c41H by James M. Hartzheim is hereby granted to change his diversion point from the SE1/4 NW1/4 NW1/4, Section 14, Township 3 South, Range 5 East, M.P.M., Gallatin County, to a point in the NW1/4 NW1/4 NE1/4, Section 10, Township 3 South, Range 5 East, M.P.M., Gallatin County. The water right has been claimed under Statement of Claim No. W-120398-41H.

2. This permit is subject to the authority of court appointed water commissioners, if and when appointed, to

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admeasure and distribute to the parties using water in the source of supply the water to which they are entitled, including the waters granted in the permit. The permittee shall pay his proportionate share of the fees and compensation and expenses, as fixed by the district court, incurred in the distribution of the waters granted in this permit.

3. The permittee shall install a suitable headgate or diversion structure at the point the water is diverted from the source of supply.

4. The permittee shall install an adequate water flow measuring device, at a suitable place as near as practicable to the point where the water is diverted from the source of supply, in order to record the flow rate and volume of water diverted. The permittee shall keep a written record of the flow rate and volume of all waters diverted including the period of time and shall submit said records to the Department upon request.

NOTICE: The approval of this change is not to be construed as recognition by the Department of the rights involved. All rights are subject to possible modification under the proceedings pursuant to Title 85, Chapter 2, Part 2, MCA.

NOTICE

The Department's Final Order may be appealed in accordance with the Montana Administrative Procedures Act by filing a

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petition in the appropriate court within thirty (30) days after service of the Final Order.

DONE this 13th day of April, 1983.

David L. Pengelly

David L. Pengelly, Hearing Examiner
Department of Natural Resources
and Conservation
32 S. Ewing, Helena, MT 59620
(406) 449 - 3962

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AFFIDAVIT OF SERVICE
FINAL ORDER

STATE OF MONTANA)
) ss.
County of Lewis & Clark)

Cheryl L. Wallace, an employee of the Montana Department of Natural Resources and Conservation, being duly sworn on oath, deposes and says that on April 13, 1983, she deposited in the United States mail, certified return receipt mail, an order by the Department on the Application by James M. Hartzheim, Application No. 41749-c41H, for an Application for Beneficial Water Use Permit, addressed to each of the following persons or agencies:

1. James M. Hartzheim, P.O. Box 601, Bozeman, MT 59715
2. James C. Boyd, Hoy Ditch Co., 6465 So. 19th Rd., Bozeman, MT 59715
3. Lloyd Raffety, Middle Creek Ditch Co., P.O. Box 2, Bozeman, MT 59715
4. Dave Pengelly, Hearing Examiner (hand deliver)
5. Scott Compton, Bozeman Field Office (inter-department mail)

DEPARTMENT OF NATURAL RESOURCES AND
CONSERVATION

by Cheryl L. Wallace

STATE OF MONTANA)
) ss.
County of Lewis & Clark)

On this 13th day of April, 1983, before me, a Notary Public in and for said state, personally appeared Cheryl L. Wallace, known to me to be the Hearings Recorder of the Department that executed this instrument or the persons who executed the instrument on behalf of said Department, and acknowledged to me that such Department executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year in this certificate first above written.

Judy Lohr
Notary Public for the State of Montana
Residing at Montana City, Montana
My Commission expires 3/1/85

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